



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

November 17, 2021

NOTICE OF HEARING

TO: Powertech (USA) Inc.
c/o Matthew E. Naasz and Richard M. Williams, Counsel
Gunderson, Palmer, Nelson & Ashmore, LLP
P.O. Box 8045
Rapid City SD 57709

And Parties of Record (see attached list dated November 17, 2021)

FROM: Ron Duvall, Water Rights Permitting Administrator
SD DANR, Water Rights Program

SUBJECT: Order regarding denying Powertech motion to amend procedural order, denying Clean Water Alliance's motion to allow electronic service, and updating parties of record concerning the contested case hearing for the Consolidated Case in the matter of Water Permit Application Nos. 2685-2 and 2686-2 and Ground Water Discharge Plan GWD 1-13, Powertech (USA) Inc.

Based on the Water Management Board decision at the October 6, 2021 motions hearing concerning the consolidated case in the matter of Water Permit Application Nos. 2685-2 and 2686-2 and Ground Water Discharge Plan GWD 1-13, Powertech (USA) Inc., attached is a draft Order denying the Powertech motion to amend the procedural order, denying Clean Water Alliance's motion to allow electronic service, and updating the parties of record. The Water Management Board will consider acting on the draft Order at 9:30 AM (Central Time) on December 8, 2021, in Matthew Training Center, Joe Foss Building, 523 East Capitol Avenue, Pierre SD.

Space is limited in Matthew Training Center and, depending on attendance, it may not be possible to accommodate social distancing as recommended by the CDC due to COVID-19. Another option for parties of record is to participate remotely via video/audio or phone. Connection information is available on the South Dakota Boards and Commissions portal at <https://boardsandcommissions.sd.gov/Meetings.aspx?BoardID=106>. An audio-only livestream of the meeting will also be available at the above link. Participation, either in-person or remotely, is limited to parties of record other than the public comment period. Any individual who is a party may represent themselves or be represented by legal counsel. Any party of record which is an organization, entity, or is comprised of multiple people must be represented by legal counsel in accordance with state law.

Notices, orders, and other pleadings filed in this matter are posted on DANR's contested case page available at <https://danr.sd.gov/public/contestedcases.aspx>.

Questions may be directed to Ron Duvall, Water Rights Program at (605) 773-3352 or ron.duvall@state.sd.us.

c: Ann Mines Bailey, Assistant Attorney General
Steven R. Blair, Assistant Attorney General
David McVey, Assistant Attorney General

Parties of Record to the Consolidated Case in the matter of Water Permit Application Nos. 2685-2 and 2686-2 and Ground Water Discharge Plan GWD 1-13, Powertech (USA) Inc.

November 17, 2021

Status "A" Intervenors:

Last Name	First Name	Company	Address	City	State	Zip
Anawaty	Jillian	Dakota Rural Action	2804 Willow Rd	Rapid City	SD	57701
Baldwin	Angelia		PO Box 191	Pierpont	SD	57468
Boddicker	Mark		13850 Battle Creek Rd	Hermosa	SD	57744
Brunson	Cindy		11122 Fort Igloo Rd	Edgemont	SD	57735
Cing	William		1446 Evanston Ave	Hot Springs	SD	57747
Draeger	Rick		617 St Cloud	Rapid City	SD	57701
Ellison	Bruce	Attny for Clean Water Alliance	PO Box 2508	Rapid City	SD	57709
Gamache	Brenda		2337 Wilson Ave	Hot Springs	SD	57747
Gillis	W Cindy	Attny for Oglala Sioux Tribe	522 7th St # 202	Rapid City	SD	57701
Heckenlaible	Gary		PO Box 422	Rapid City	SD	57709
Henderson	Susan		PO Box 731	Edgemont	SD	57735
Hickey	Michael	Attny for Wild Horse Sanctuary	PO Box 2670	Rapid City	SD	57709
Jarding	Lilias C		PO Box 591	Rapid City	SD	57709
Johnson	Andy		610 Nellie Ln	Spearfish	SD	57783
Kammerer	Marvin		22198 Elk Vale Rd	Rapid City	SD	57701
Kaneshiro	Gwen E		1446 Evanston Ave	Hot Springs	SD	57747
King	Sabrina		14705 Halter Ct	Piedmont	SD	57769
Kloucek	Frank J		29966 423rd Ave	Scotland	SD	57059
Knudson	Rodney		PO Box 25	Hulett	WY	85720
Leas	Rebecca R		6509 Seminole Ln	Rapid City	SD	57702
Lord	Rebecca Michele		Po Box 952	Hill City	SD	57745-0952
McLean	Dahl H		11853 Acorn Ridge Rd	Spearfish	SD	57783
Parkhurst	Gena		PO Box 1914	Rapid City	SD	57709
Rowe	Cheryl A		7950 Dark Canyon Rd	Rapid City	SD	57702
Rowe	Roger		7950 Dark Canyon Rd	Rapid City	SD	57702
Summerville	Rick V		6509 Seminole Ln	Rapid City	SD	57702
Uptain	Douglas		3213 W Main #112	Rapid City	SD	57702

Parties of Record to the Consolidated Case in the matter of Water Permit Application Nos. 2685-2 and 2686-2 and Ground Water Discharge Plan GWD 1-13, Powertech (USA) Inc.

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Status "B" Intervenor:

Last Name	First Name	Company	Address	City	State	Zip
Ackerman	Donald L		27128 Wonderland	Hot Springs	SD	57747
Alarie	Keith		840 Spruce St Lot 320	Rapid City	SD	57701
Alarie	Kim		840 Spruce St Lot 320	Rapid City	SD	57701
Ames-Curtis	Juli		11936 Hay Creek Rd	Custer	SD	57730
Amiatte	Twyla		PO Box 125	Buffalo Gap	SD	57722
Arns	Harold		22723 Tawney Ct	Box Elder	SD	57719
Arpen	Jacqueline		2004 Maple Ave	Rapid City	SD	57701
Bad Wound	Brandon		639 Pahsapa Rd	Rapid City	SD	57701
Badure	Brianna		PO Box 971	Hot Springs	SD	57747
Baker	Jerri		705 N River St	Hot Springs	SD	57747
Ball	Anna K		PO Box 46	Piedmont	SD	57769
Barnaud	Bernard & Laurie		12129 Sagebrush Rd	Nisland	SD	57762
Barnes	Thomas F		11778 Pleasant Valley Rd	Custer	SD	57730
Bassingham	Joe		10985 Pleasant Valley Rd	Hot Springs	SD	57747
Baumberger	Sudhi		12374 Baumberger Rd	Deadwood	SD	57732
Belitz	Mark & Jennifer		28233 Cascade Rd	Hot Springs	SD	57747
Berford	Eddie		241 Galveston Ave	Hot Springs	SD	57747
Between Lodge	Annabelle		PO Box 118	Oglala	SD	57764
Binns	Edward H		408 N 17th St	Hot Springs	SD	57747
Bloomer	Jerry		2146 Minnekahta Ave	Hot Springs	SD	57747
Bochert	Hannah		Sherman St	Hot Springs	SD	57747
Boots	Mary		25588 Mt Shadow Rd	Edgemont	SD	57735
Boots	Wayne		25588 Mt Shadow Rd	Edgemont	SD	57735
Bothul	Karl W		338 S 17th	Hot Springs	SD	57747
Britton	Rick		PO Box 53	Hot Springs	SD	57747
Brock	Michelle		26846 Hwy 385	Hot Springs	SD	57747
Burrows	Mary R		545 N River St Apt 211	Hot Springs	SD	57747-6800
Caln	Wally		690 S 6th St	Hot Springs	SD	57747
Carle	Mary Kay		5821 Michael Ct	St Cloud	MIN	56303
Chesson	Allen		545 N River St	Hot Springs	SD	57747
Christensen	Julie & Emily		603 N River St	Hot Springs	SD	57747
Christie	Sharon & Alex		PO Box 74	Buffalo Gap	SD	57722
Cox	Charles		PO Box 84	Hot Springs	SD	57747
Cross	Georgiana		2045 Canton Ave #530	Hot Springs	SD	57747
Daiss	Teresa		28423 Old Hwy 79	Hot Springs	SD	57747
Davies	Lynda		Po Box 1204	Hot Springs	SD	57747
Davis	Jeremiah J		130 E Centennial	Rapid City	SD	57701
Detmers	Joel		13488 Shelter Dr	Rapid City	SD	57702
Detmers	Peggy		13488 Shelter Dr	Rapid City	SD	57702
DeVries	Don	City of Hot Springs	303 N River St	Hot Springs	SD	57747
Dexter	Kendra		23278 Pebble Ct	Hot Springs	SD	57747
Dexter	Ross		PO Box 883	Hot Springs	SD	57747

Parties of Record to the Consolidated Case in the matter of Water Permit Application Nos. 2685-2 and 2686-2 and Ground Water Discharge Plan GWD 1-13, Powertech (USA) Inc.

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Status "B" Intervenor (continued)

Dicesare	Francis		1501 11st St	Rapid City	SD	57701
Drapper (Doppen Leora			13174 Fall River Rd	Hot Springs	SD	57747
Durum	Kathy		10374 Dryland Dr	Edgemont	SD	57735
Elmore	Rosie		PO Box 886	Hot Springs	SD	57747
Emanuel	Tom	Executive Director - SD Peace & Justice	19 N Pine St	Vermillion	SD	57069
Engle	M.		115 Scott St	Edgemont	SD	57735
Engle	T.		115 Scott St	Edgemont	SD	57735
Evans	Wade		27338 Taylor Ln	Hot Springs	SD	57747
Everhart	Elaine		545 N River St	Hot Springs	SD	57747
Fair	Cheryl & Jon		12909 Shep's Canyon Rd	Hot Springs	SD	57747
Fine	Jeannie		PO Box 153	Pringle	SD	57773
Firkins	Jana		244 Galveston Ave	Hot Springs	SD	57747
Fischer	Ronald		711 6th Ave East	Mobridge	SD	57601
Fisher	Donna M		12311 Whitetail Rd	Deadwood	SD	57732
Frederick	Shirley		3411 Idlewild Court	Rapid City	SD	57702
Freshour	Lisa		2045 Canton Ave #535	Hot Springs	SD	57747
Friendshuh	Gary		27098 Elk Rd	Buffalo Gap	SD	57722
Gaalaugh	Judy		912 9th St	Rapid City	SD	57701
Gaalswyk	Judy		912 9th St	Rapid City	SD	57701
Gericke	Rich & Jackie		305 S 14th St	Hot Springs	SD	57747
Gill	Amber		718 Harney	Custer	SD	57730
Goulet	Mary		338 S 5th St	Hot Springs	SD	57747
Gozelet	May		338 S River St	Hot Springs	SD	57747
Grant	Jesse		1938 Detroit Ave	Hot Springs	SD	57747
Gray	Lynn		PO Box 153	Pringle	SD	57773
Gray	Garnder		20228 Avalanche Rd	Whitewood	SD	57793-6414
Gross	Diane		27426 Cedar Rd	Hot Springs	SD	57747-8500
Haacke	Jake		1026 Evanston Ave	Hot Springs	SD	57747
Hansen	William R	NPS-Water Resource Div.	1201 Oakridge Dr # 250	Fort Collins	CO	80525
Harvey	Edward		1545 Albany Ave	Hot Springs	SD	57747
Hawkins	Joel		504 16th St	Hot Springs	SD	57747
Heafner	Ellen		504 S 19th	Hot Springs	SD	57747
Heinzen	Kip		309 S 6th St	Hot Springs	SD	57747
Heizen	Clifford		309 S 6th St	Hot Springs	SD	57747
Heizen	Virginia M		309 S 6th St	Hot Springs	SD	57747
Hernandez	Moses-Ciser & Veronica		410 1/2 South St	Hot Springs	SD	57747
Hernandez	Patricia		71 Apache Plume Dr	Santa Fe	NM	87508
Hertel	Carolyn		27615 Country View Rd	Hot Springs	SD	57747
Hicks	Luella J		PO Box 144	Buffalo Gap	SD	57722
Holcomb	Terry		105 S 23rd St	Hot Springs	SD	57747
Holmes	Georgia	Hot Springs Council	838 Birch	Hot Springs	SD	57747
Horton	Jeremy A		PO Box 629	Edgemont	SD	57735
Horton, Sr	Roger K		PO Box 629	Edgemont	SD	57735
Hunter	BJ		353 Bears Ave	Hot Springs	SD	57747

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Status "B" Intervenor (continued)

Hyde	Dayton O	President - BH Wild Horse Sanctuary	PO Box 932	Hot Springs	SD	57747
Jacoue?	Richardo		601 Albany Ave	Hot Springs	SD	57747
Jarding	Cheryl		202 E Nebraska St	Rapid City	SD	57701
Jarding	John B		202 E Nebraska St	Rapid City	SD	57701
Jarding	Anglea & Mike		27201 Valley Rd	Hot Springs	SD	57747
Jarding	Mike		27201 Valley Rd	Hot Springs	SD	57747
Jenkins	Patricia		287 Evans Ln	Spearfish	SD	57783
Jensen	Maxine		806 Galveston	Hot Springs	SD	57747
Jensen	Dan		806 Galveston	Hot Springs	SD	57747
Jensen	Dianna		27999 Cascade Rd	Hot Springs	SD	57747
Johnson	Forest		610 Nellie Ln	Spearfish	SD	57783
Johnson	Terry		26680 Buffalo Butte Dr	Hot Springs	SD	57747
Johnson	Dawn		PO Box 1123	Hot Springs	SD	57747
Just	Lorna		21939 464th Ave	Volga	SD	57071
Kaneshiro	Eloise		1446 Evanston Ave	Hot Springs	SD	57747
Keierleber	Angie	Custer Conservation District	447 Crook St #1	Custer	SD	57730
Kelley	Don		12637 Meritt-Estes Rd	Deadwood	SD	57732
Kelley	Kim		12637 Merritt-Estes Rd	Deadwood	SD	57732
Kennedy	Corey		140 Adnoia Ln	Rapid City	SD	57701
Kennedy	Shawntera		140 Adnoia Ln	Rapid City	SD	57701
Keown	Jewell		410 S 4th St	Hot Springs	SD	57747
Keys	Stanley T		224 E Minnesota St, Apt 205	Rapid City	SD	57701
Klein	Judith		238 N 6th St	Hot Springs	SD	57747
Knuckles	Dennis & Penny		12484 Willow Creek Rd	Custer	SD	57730
Lambert	Sylvia		PO Box 78	Interior	SD	57750
Lamont	Laurence & Margaret		PO Box 53	Buffalo Gap	SD	57722
Lang	Dan		27564 Ponderosa Rd	Hot Springs	SD	57747
Langer	Greg		PO Box 141	Buffalo Gap	SD	57722
Lanz	Matt		27927 Cascade Spring Rd	Hot Springs	SD	57747
Larive	Calvin		713 N River St	Hot Springs	SD	57747
LaRive	Karla R		839 Almond St	Hot Springs	SD	57747
Larson	John E		10374 Dryland Dr	Edgemont	SD	57738
Larvie	Karla		PO Box 752	Hot Springs	SD	57747
Lee	Robert		338 S 5th St	Hot Springs	SD	57747
Ludweg	Pam		810 Gordon	Custer	SD	57730
Magnuson	Nancy C		PO Box 54	Buffalo Gap	SD	57722
Malewke	Susan		545 N River St #401	Hot Springs	SD	57747
Marshall	Carla Rae		PO Box 3184	Rapid City	SD	57709
Masterson	Lisa		445 S 6th St	Hot Springs	SD	57747
McComb	DeAnn		PO Box 254	Hot Springs	SD	57747
McGrath	Daria		8403 Pioneer Circle	Rapid City	SD	57701
McGrath	James B		8403 Pioneer Circle	Rapid City	SD	57702
McKean	Jim		27317 Hidden Ct	Hot Springs	SD	57747
McLaughlin	Billy Jack		PO Box 25	Buffalo Gap	SD	57722

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Status "B" Intervenor (continued)

McLean	Linsey	14390 Edgewood Pl	Piedmont	SD	57769
Messenger	Cynthia	12750 Merchen Rd #18	Hot Springs	SD	57747
Meyer	Steven & Lexxie	13050 Lakeview Dr	Hot Springs	SD	57747
Meyer	Martin H & Elsa	102 S Connor St	Hot Springs	SD	57747
Miles	Gary	27528 Rathbun Rd	Hot Springs	SD	57747
Miller	Neal	486 Almond St	Hot Springs	SD	57747
Miller	Marsha	11820 Red Fox Dr	Maple Grove	MN	55369-6340
Miller	Karen N	3119 Turtle Creek Ct	Rapid City	SD	57703
Mushaney	Glenn	PO Box 272	Hot Springs	SD	57747
Nachtigall	Jason	12749 Country Rd	Hot Springs	SD	57747
Nachtigall	Jean	12746 Country Rd	Hot Springs	SD	57747
Naylor	Valerie	23201 Custer Trails Rd	Rapid City	SD	57702
Neugebauer	Casey	27552 S Buffalo Gap Rd	Oral	SD	57766
Nowlan	Richard	202 Dakota St	Hot Springs	SD	57747
O'Rourke	Michael	4513 Leo Dr #4	Madison	WI	53716
Ortego	Madeline	Po Box 861	Pine Ridge	SD	57773
Osborn	Otis	523 St Francis St	Rapid City	SD	57701
Palmer	Raymond	27221 Windy Rd	Hot Springs	SD	57747
Parker	Jason	1005 S River St	Hot Springs	SD	57747
Parker, MD	Valerie A	PO Box 1460	Rapid City	SD	57702-1460
Pederson	Mary Helen	PO Box 646	Hot Springs	SD	57747
Pence	Mel	2330 Washington Ave	Hot Springs	SD	57747
Peterson	Jim	1203 11st St	Rapid City	SD	57701
Peterson	Sarah	510 Jennings	Hot Springs	SD	57747
Phillips	Sarah & AJ	4099 S 570 Apt 15F	Salt LakeCity	UT	84107
Pierce	Chris	101 N Chicago	Hot Springs	SD	57747
Piper	Rex & Mildred	1609 Detroit Avenue	Hot Springs	SD	57747
Pirales	Linda	311 S Winconsin Ave	Casper	WY	82609
Powell	Cindy	1637 38th St	Rapid City	SD	57702
Preheim	Steve	2317 Washington	Hot Springs	SD	57747
Putnam	Gary	204 4th Ave	Hot Springs	SD	57747
Red Cloud	Jim	13084 Gray Dr	Hot Springs	SD	57747
Resident		12560 Beaver Creek Rd	Hot Springs	SD	57747
Resident		309 S 6th St	Hot Springs	SD	57747
Rewe	Rick	28149 Shep's Canyon Rd	Hot Springs	SD	57747
Reynar	Charleton T	2500 S Elmwood Ave	Sioux Falls	SD	57105-3318
Richards	Dorothy	340 N 23rd St	Hot Springs	SD	57747
Romey	Craig	342 N 4th	Hot Springs	SD	57747
Rosaaen	Elray	PO Box 125	Buffalo Gap	SD	57722
Roseland	Katie	5811 Gemini St	Rapid City	SD	57703
Rowe	Cindy	7950 Dark Canyon Rd	Rapid City	SD	57701
Runzerel	Betty	PO Box 836	Hot Springs	SD	57747
Rush	Grant	PO Box 172	Hot Springs	SD	57747
Russell	Betty	Po Box 836	Hot Springs	SD	57747

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Status "B" Intervenor (continued)

Ruther	Frank	545 N River Apt 110	Hot Springs	SD	57747
Salway	Mary and Jason	PO Box 424	Allen	SD	57714
Saxonis	Gail M	745 Happy Hollow	Hot Springs	SD	57747
Schwarzenbach	Connie Aann	2229 Minnekahta Ave	Hot Springs	SD	57747
Schwarzenbach	John	2229 Minnekahta Ave	Hot Springs	SD	57747
Schweigert	Gary	279 Cascade Rd	Hot Springs	SD	57747
Seabolt	Marsha	4435 Dolphin	Rapid City	SD	57701
Semler	Peggy	PO Box 245	Hot Springs	SD	57747
Shannon	Robert V	24705 Timber Ridge Rd	Hermosa	SD	57744
Sharp	Barbara	445 S 3rd St	Hot Springs	SD	57747
Simpson	Ashley	PO Box 587	Hot Springs	SD	57747
Simpson	Ashley	PO Box 587	Hot Springs	SD	57747
Simunter	Jerry	22769 Jenny Rd	Hot Springs	SD	57747
Sisk	Russ	12619 Booke Canyon Rd	Hot Springs	SD	57747
Smith	Maura	306 Joplin # 8	Hot Springs	SD	57747
Smith	J	2728 Hoot Brook	Hot Springs	SD	57747
Smith	Charlene J	PO Box 481	Rapid City	SD	57709
Smith	Jeremy	287 Evans Ln	Spearfish	SD	57783
Stareck	Susan	PO Box 686	Hot Springs	SD	57747
Steineke	Dale	13130 Greg Dr	Hot Springs	SD	57747
Stevens	Darla	1622 Evanston	Hot Springs	SD	57747
Stolarcek	Susan	PO Box 686	Hot Springs	SD	57747
Stone	Richard	12959 Buffalo Circle	Hot Springs	SD	57747
Streff	Lila	12379 Beaver Den Dr	Custer	SD	57730
Styger	Linda M	206 Meadowlark Dr	Hot Springs	SD	57747-5202
Sugge	Michelle	PO Box 139	Hot Springs	SD	57747
Sutherland	Dennis	2202 University	Hot Springs	SD	57747
Swan	Alison	703 N River St	Hot Springs	SD	57747
Tonemah?	Paula	306 Thompson	Hot Springs	SD	57747
Towne	Niklaus	28423 Old Hwy 79	Hot Springs	SD	57747
Troxel	Jo Beth	303 E Morse St	Callaway	NE	68825
Tubbs	Mark	10891 River Rd	Edgemont	SD	57735
Tucker	Loraine	PO Box 1129	Hot Springs	SD	57747
Uptain	Mary Ellen	3213 W Main #112	Rapid City	SD	57702
Van Cleave	Judith R	PO Box 9552	Rapid City	SD	57702-9552
Vong	Milli	333 N River St	Hot Springs	SD	57747
Walker	Alan	303 Cedar St	Buffalo Gap	SD	57722
Walleen	Lennie	446 S 16th	Hot Springs	SD	57747
Walter	Barbara	545 N River St Apt 503	Hot Springs	SD	57747
Walton	Kellee	1005 S River St	Hot Springs	SD	57747
Watt	Susan W	PO Box 790	Hot Springs	SD	57747
Weimers	Wendolyn	306 N 19th St	Hot Springs	SD	57747
Weishaupl	Debra J	110 N 3rd St	Hot Springs	SD	57747
Welch	Betty	PO Box 14	Edgemont	SD	57735

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Status "B" Intervenor (continued)

Walleen	Lennie		446 S 16th	Hot Springs	SD	57747
Walter	Barbara		545 N River St Apt 503	Hot Springs	SD	57747
Walton	Kellee		1005 S River St	Hot Springs	SD	57747
Watt	Susan W	BH Wild Horse Sanctuary	PO Box 790	Hot Springs	SD	57747
Weimers	Wendolyn		306 N 19th St	Hot Springs	SD	57747
Weishaupl	Debra J		110 N 3rd St	Hot Springs	SD	57747
Welch	Betty		PO Box 14	Edgemont	SD	57735
White Face	Charmaine	Coordinator - Defenders of the Black Hills	PO Box 2003	Rapid City	SD	57709
White Plume	Debra		PO Box 71	Manderson	SD	57756
Wilder	Kristen		506 Jennings Ave	Hot Springs	SD	57747
Wilkinson	Bette		3718 Redwood St	Rapid City	SD	57701
Wilson	Jerry		30959 Frog Creek Rd	Vermillion	SD	57069
Witte	Russell D		301 S Chicago	Hot Springs	SD	57747
Woodard	Julia		639 Pahsapa Rd	Rapid City	SD	57701
Woodard	Sandra		PO Box 533	Oglala	SD	57764-0533
Wynia	Robin		12750 Merchen Rd	Hot Springs	SD	57747
Yekel	Karen		2455 Minnekahta	Hot Springs	SD	57747
Zornes	Elton		12742 Hwy 18	Hot Springs	SD	57747
	Alica		PO Box 861	Pine Ridge	SD	57773
	Rube D		104 Jefferson St	Edgemont	SD	57735

Status "C" Intervenor

Last Name	First Name	Address	City	State	Zip
Anderson	Kenneth D	24035 Palmer Gulch Rd	Hill City	SD	57745
Audette	Beth	1929 Evergreen Dr	Rapid City	SD	57702
Baker	Jerri & Ronald	705 N River St	Hot Springs	SD	57747
Belitz	Larry & Doris	12747 Oak Rd	Hot Springs	SD	57747
Besco	Heather J	PO Box 82	Buffalo Gap	SD	57722
Birkland	Jay	301 S 6th St	Hot Springs	SD	57747
Birkland	LaVella	301 S 6th St	Hot Springs	SD	57747
Bledsoe	Donald	27635 View Rd	Oral	SD	57766
Boots	Ray	302 Crook St	Custer	SD	57730
Brygider	B.R.	104 Tullamore Rd	Garden City	NY	11530-2512
Corrigan	George	446 S 5th St	Hot Springs	SD	57747
Cromwell	Barbara	2313 Cruz Dr	Rapid City	SD	57702
Crowley	Sister Gabriella	720 E Wiswall Pl	Sioux Falls	SD	57105
David	Jeremiah	130 E Centennial	Rapid City	SD	57701
Drappier (Doppen)	Joe	13174 Fall River Rd	Hot Springs	SD	57747
Fair	Jon	12909 Shep's Canyon Rd	Hot Springs	SD	57747
Fandrich	Irene	301 S 6th St	Hot Springs	SD	57747
Fields, PhD	Anne	2415 Amberbrooke Ln	Grayson	GA	30017
Forrette III	Adrian	119 S Berry Pine Rd	Rapid City	SD	57702-1911
Furois	Therese Marie	1851 City Springs Rd	Rapid City	SD	57702
Gellerman	Ray	12349 Moss Rock Lane	Custer	SD	57730
Good Voice Flute	Rick	1216 Wambli Dr	Rapid City	SD	57701
Graves	George Ann	304 4th St	Buffalo Gap	SD	57722
Graves	Glen	304 4th St	Buffalo Gap	SD	57722
Heckman	Philip S	11936 Hay Creek Rd	Custer	SD	57730

Parties of Record to the Consolidated Case in the matter of Water Permit Application Nos. 2685-2 and 2686-2 and Ground Water Discharge Plan GWD 1-13, Powertech (USA) Inc.

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Status "C" Intervenor (continued)

Heizen	Clifford	309 S 6th St	Hot Springs	SD	57747
Hey	Susan	312 N 40th St	Rapid City	SD	57702
Huston	Sharon	12571 BH Flyway Rd	Hot Springs	SD	57747
Ikonen	Margaret	445 S 6th St	Hot Springs	SD	57747
Jensen	Lyle	13167 Fall River Rd	Hot Springs	SD	57747
Joba	Judith A	3463 Elk Creek	Piedmont	SD	57769
Johnson	Jim	3085 Anderson Rd SE	Port Orchard	WA	98366-8751
Keiswetter	Bonnie	12899 Sapphire Ln	Hot Springs	SD	57747
Keiswetter	Dallas	12899 Sapphire Ln	Hot Springs	SD	57747
Keogh	Margaret Mary	1851 City Springs Rd	Rapid City	SD	57702-9602
Koch	Regina A	515 N 1st St #1	Rapid City	SD	57701
Kursave	Louise	27275 SD Hwy 79	Buffalo Gap	SD	57722
Lautenschlager	Shirley & Rober	3507 Idlewild Ct	Rapid City	SD	57702
Lena	Jennifer	8812 Dunsmore Rd	Rapid City	SD	57702
Linderman	Mike	446 Battle Mtn Ave	Hot Springs	SD	57747
Lockhart	Grady	PO Box 152	Oelrichs	SD	57752
Maritz	Bonnie & Donal	545 N River #313	Hot Springs	SD	57747
Martin	Miriam & Ken	801 N River St	Hot Springs	SD	57747
Mason	Mark	1161 Deadwood Ave #3	Rapid City	SD	57702
McDowell	Gary A	701 South St Apt B	Rapid City	SD	57701
McKean	Jody	27317 Hidden Ct	Hot Springs	SD	57747
Merwin	Carol	2247 Cedar Dr	Rapid City	SD	57702
Montague	Katherine L	1216 Wambli Dr	Rapid City	SD	57701-0456
Montgomery	Joe W	210 Pine St	Buffalo Gap	SD	57722
Muhm	Marion	1614 Coldbrook Ave	Hot Springs	SD	57747
Murphy	Leslie	523 E Capitol Ave	Pierre	SD	57501
Nolan	Susan	1164 Lookout Lane	Rapid City	SD	57735
Noyes	Elaine	4104 Lakeview Dr	Rapid City	SD	57702
Ohliger	Eileen	446 S 5th St	Hot Springs	SD	57747
Ohliger	Patricia E	446 S 5th St	Hot Springs	SD	57747
Olson	James L	12350 Beaver Den Dr	Custer	SD	57730
Olson	Rev. Jodi	12350 Beaver Den Dr	Custer	SD	57730
Panarella	Virginia	26979 SD Hwy 89	Hot Springs	SD	57747-6002
Parker	Sharon	1913 Jennings Ave	Hot Springs	SD	57747
Pettigrew	Karen	1203 St Cloud St	Rapid City	SD	57701
Pettris	Rose or Reese	12544 W Cascade Rd	Hot Springs	SD	57747
Powell	Raymond	2025 Lincoln Ave	Hot Springs	SD	57747
Regelin	Carrie	2312 Serten Ave	Rapid City	SD	57701
Reynar	Antoinette	2500 S Elmwood Ave	Sioux Falls	SD	57105-3318
Rowe	Floyd	28144 Lot 50, Sheep Canyon	Hot Springs	SD	57747
Shaw	J & M	12083 Beardsley Dr	Hot Springs	SD	57747
Smith	Linda L	947 S Chicago St	Hot Springs	SD	57747
Soave	Gail M	14249 Lyons St	Livonia	MI	48154
Stearns	Dewane	11500 Indian Canyon Rd	Edgemont	SD	57735
Tegantvoort	Larry	10041 Ventura Ln	Summerset	SD	57718
Tiff	Jeannie	2342 Wilson Ave	Hot Springs	SD	57747
Tyson	Matie	2508 Crown Hill	Rapid City	SD	57702
Walsh or Welsh	Bill	7450 Dark Canyon Rd	Rapid City	SD	57702
Weller	Kathryn	8812 Dunsmore Rd	Rapid City	SD	57702
Williams	Trip	27662 Scenic Rd	Hot Springs	SD	57747

STATE OF SOUTH DAKOTA
DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT)	
APPLICATIONS NOS. 2685-2 AND)	ORDER DENYING POWERTECH
2686-2, POWERTECH (USA), INC.)	MOTION TO AMEND PROCEDURAL
)	ORDER, DENYING CLEAN WATER
IN THE MATTER OF THE 2012)	ALLIANCE'S MOTION TO ALLOW
GROUNDWATER DISCHARGE PLAN)	ELECTRONIC SERVICE, AND
APPLICATION SUBMITTED BY)	UPDATING PARTIES OF RECORD
POWERTECH (USA), INC.)	

PROCEDURAL HISTORY

Powertech submitted applications for two water permits on June 12, 2012. Upon review, approval of the permits was recommended by the Chief Engineer. These applications were publicly noticed and petitions to intervene in the matter were received.

Previously, on March 9, 2012, Powertech submitted an application for a groundwater discharge plan. Upon review, a recommendation of approval was issued, and the matter was publicly noticed. Several hundred petitions requesting a contested case proceeding were subsequently received.

Under the statutes and rules regulating a groundwater discharge plan, the Water Management Board provides the initial approval of the plan by issuing any necessary water quality variance permits and groundwater discharge facility construction permits. See ARSD §§ 74:54:02:09, 74:54:02:11, and 74:54:02:13. The Secretary of the Department, however, issues the final approval of a groundwater discharge plan. See SDCL § 34A 2 36.1 and ARSD § 74:54:02:14. Accordingly, the Secretary appointed the Water Management Board to conduct the contested case proceedings "required by SDCL 34A-2-36.1 and ARSD 74:54:02:14 along with the inter-related permits issued by the WMB under ARSD 74:54:02:09, 74:54:02:11 and 74:54:02:13, and to issue a recommendation to the Secretary[.]" See Appointment of Water Management Board to Conduct Evidentiary Hearing, dated January 29, 2013.

On January 30, 2013, counsel for the Water Rights Program and the

Groundwater Quality Program moved to consolidate the matters for further proceedings.

On February 13, 2013, the Prehearing Chair, Ev Hoyt, issued a Procedural Order. That Order granted the Motion to Consolidate and further provided an outline for the course of these proceedings. In particular, it required intervenors or petitioners to complete an election of participation form. Class A, or Option A, participants were those who intended to fully participate in the proceedings. Class B, or Option B, participants were those who intended only to submit sworn testimony at the beginning of the contested case proceedings. Class C, or Option C, participants included those who wished to rely upon the petitions initially submitted. The Procedural Order indicates that “[a]ny party may change participation status by timely notifying DENR staff . . . and serve copies of the notification upon the parties. The Procedural Order also provided for a limited period of discovery which commenced April 1, 2013, and was required to be completed by August 23, 2013, 45 days prior to the commencement of the contested case proceedings. The parties were also required to provide disclosures of expert witnesses, witnesses, and exhibits prior to the commencement of the contested case proceedings.

Hearing was scheduled to commence on October 7, 2013 and continue through November 1, 2013. Due to the Atlas snowstorm, the hearing was postponed until October 28 through November 1, 2013. The proceedings began with the testimony of the Class B participants. See October 28-November 1, 2013 WMB Minutes. By the conclusion of the proceedings for that week, the Board had heard opening statements and had begun to receive testimony from the Class A participants, namely the testimony of John Mays, who was Vice President of Engineering of Powertech. Before the conclusion of the hearing, the parties were requested to brief several jurisdictional questions. See *id.*

The hearing was scheduled to continue on December 9 through 13, 2013. Briefs regarding the questions presented by the Board were submitted on November 14 and 19- 20, 2013. On November 19, 2013, Powertech also filed a Motion to Continue. The Motion to Continue was granted on November 25, 2013.

The NRC has issued its permits, and those permits are under appeal before the Court of Appeals of the District of Columbia. That matter has been fully briefed and is

set for oral argument before the Court of Appeals on November 9, 2021. There is no date-certain for when the Court of Appeals will hand down a decision. The Materials License was initially issued by the NRC in 2014. It went through an appeals process and was eventually remanded to the NRC for further proceedings. That subsequent license is now on appeal. The EPA granted an Aquifer Exemption in November 2020. The Aquifer Exemption is on appeal to the Circuit Court of Appeals for the Eighth Circuit, and the Eighth Circuit is holding that case in abeyance until the Class III and Class V well permits have been resolved. The EPA has issued those permits, but the EPA provides for different levels of review within the agency and one of those levels of review is with the Environmental Appeals Board (EAB). The EAB now has those permits and is holding off on making a decision until the Court of Appeals with the District of Columbia has ruled on the NRC licensing because there are similar issues. Regarding the Plan of Operations approval, the BLM took comments in August 2020, and there is no indication as to where that is in the process.

Powertech's Motion to Amend the Procedural Order

On May 28, 2021, Powertech filed a Motion to Amend the Procedural Order along with a Brief in Support of the Motion and a proposed amended Procedural Order. On June 17, 2021, the Water Rights Program and the Surface Water Quality Program filed a Response in Opposition to Powertech's Motion. On October 6, 2021, the Board met at their regularly scheduled meeting and considered Powertech's motion as part of its regular agenda.

Appearances were made by: Matt Naasz and Richard Williams on behalf of Powertech; Ann Mines Bailey on behalf of DANR Water Rights and Surface Water Quality programs, Bruce Ellison on behalf of the Clean Water Alliance, Steven Gunn for the Ogalala Sioux Tribe, and Tom Ballanco for the Institute for Range and the American Mustang and Susan Watt.

Discussion

The Order Granting Powertech's Motion to Continue provides that these hearings are continued until "resolution by the federal agencies of Powertech's pending applications for the Dewey-Burdock Project set forth in this Order." To conduct this project, Powertech is required to obtain a materials license from the Nuclear Regulatory Commission. Powertech submitted its application to the NRC on

August 10, 2009. According to the NRC Application Review Schedule, licensing action was completed on April 8, 2014. See Application Review Schedule for Dewey Burdock at <https://www.nrc.gov/info-finder/materials/uranium/licensed-facilities/dewey-burdock/dewey-burdock-schedule.html>. The matter was then brought before the Atomic Safety Licensing Board (ASLB). Review was then sought in the United States Court of Appeals for the District of Columbia Circuit. In 2018, the Court of Appeals remanded the matter to the NRC for further proceedings. *Oglala Sioux Tribe v. U.S. Nuclear Regulatory Commission, et al.*, 896 F.3d 520 (D.C. Cir. 2018). After subsequent agency proceedings, the matter is currently before the Court of Appeals once again. See *Oglala Sioux Tribe, et al. v. U.S. Nuclear Regulatory Commission, et al.*, No. 20-1489, D.C. Cir.

Powertech is also required to obtain from the Environmental Protection Agency permits for the Class III and Class V wells to be used in the project. The permits were issued by the EPA on November 24, 2020, with an effective date of December 24, 2020. See <https://www.epa.gov/uic/epa-dewey-burdock-class-iii-and-class-v-injection-well-final-area-permits>. However, the matter was appealed to the Environmental Appeals Board (EAB).

Powertech must also obtain an aquifer exemption from the EPA. The aquifer exemption was requested in January of 2013 and EPA issued the grant of the exemption on November 24, 2020. It is currently being appealed before the United States Court of Appeals for the Eighth Circuit. See *Oglala Sioux Tribe v. U.S. Environmental Protection Agency*, No. 21-1167.

Finally, a portion of the project involves federal lands. Accordingly, Powertech must obtain the approval of the Plan of Operations by the Bureau of Land Management (BLM). BLM accepted public comments on the Plan of Operations in August of 2020.

Following argument, a motion was made by the Board to deny the motion to reopen the hearing and to wait, as the original order stated, until the federal issues are resolved to the board's satisfaction. Discussion was held and it was asserted that it does not make sense for this Board to incur significant expense and move forward when the federal appeals court and the other agencies involved could render the Board's decision moot.

Having reviewed the briefs submitted by the Parties, heard the arguments of the Parties, and considered the foregoing the Board finds as follows:

1. Powertech's Motion to Amend the Procedural Order is **Denied**.
2. Powertech may request a status conference with the Board on or after April 6, 2022 and every six (6) months thereafter.
3. The Clean Water Alliance's Motion to Allow Electronic Service is **Denied**.
4. Based on the August 18, 2021 order by Prehearing Officer Freeman to parties to update contact information, U.S. Postal Service address corrections, and contact with parties of record, the following actions are ordered:
 - a. The following parties with undeliverable mail service are removed from future mailings until such time as corrected mailing addresses are received from the party: Gary Heckenlaible, Rebecca Michele Lord, Rick V Summerville, Brianna Badure, Jerri Baker, Joe Bassingham, Eddie Berford, Jerry Bloomer, Hannah Bochert, Karl W Bothul, Rick Britton, Michelle Brock, Allen Chesson, Charles Cox, Georgiana Cross, Teresa Daiss, Kendra Dexter, Ross Dexter, Leora Drapper (Doppen), Rosie Elmore, Tom Emanuel (Executive Director - SD Peace & Justice Center), Elaine Everhart, Jeannie Fine, Jana Firkins, Judy Gaalaugh, Judy Gaalswyk, Amber Gill, May Gozelet, Joel Hawkins, Moses-Ciser & Veronica Hernandez, Patricia Hernandez, Cheryl Jarding, John B Jarding, Dan Jensen, Maxine Jensen, Corey Kennedy, Shawntera Kennedy, Jewell Keown, Stanley T Keys, Matt Lanz, Calvin Larive, Susan Malewke, Lisa Masterson, Jim McKean, Billy Jack McLaughlin, Neal Miller, Glenn Mushaney, Jason Nachtigall, Richard Nowlan, Madeline Ortego, Otis Osborn , Mary Helen Pederson, Chris Pierce, Gary Putnam, Jim Red Cloud, Resident (12560 Beaver Creek Rd, Hot Springs SD), Grant Rush, Gary Schweigert, Russ Sisk, J Smith, Maura Smith, Dale Steineke, Darla Stevens, Richard Stone, Michelle Sugeg, Dennis Sutherland, Alison Swan, Niklaus Towne, Loraine Tucker, Lennie Walleen, Barbara Walter, Betty Welch, Kristen Wilder, Alica, Beth Audette, Sister Gabriella Crowley, Joe Drapper (Doppen), Margaret Ikonen, Judith A Joba, Regina A Koch, Bonnie & Donald Maritz, Jody McKean, Carol Merwin, Virginia Panarella,

Carrie Regelin, J & M Shaw, Dewane Stearns, Larry Tegantvoort, Trip Williams;

- b. The following parties' addresses and contact person for entities shall be updated either due to mailing address corrections received from the U.S. Postal Service or responses to the August 18, 2021 order of Prehearing Officer Freeman: Angelia Baldwin, Rebecca R Leas, Susan Watt (BH Wild Horse Sanctuary), Mike Baldwin (Custer Conservation District), Hilary Morey (SD Dept. of Game, Fish and Parks), Barbara Cromwell, Robert Nelson (City of Hot Springs replacing former Mayor Don DeVries), Mary R Burrows, Garnder Gray, Diane Gross, Marsha Miller, Valerie A Parker - MD, Charleton T Reynar, Frank Ruther, Linda M Styger, Judith R Van Cleave, Jim Johnson, Antoinette Reynar, Frank James (Director of Dakota Rural Action replacing Jillian Anawaty), Mark & Jennifer Belitz, Julie & Emily Christensen, Chief - Water Rights Branch of NPS Water Resources Div (replaces William R Hansen former division chief);
- c. Based on requests from spouses, received either via email or phone, to remove their deceased spouses as parties of record, the following persons are removed as parties of record: Jon Fair, Laurence Lamont, Alan Walker, George Corrigan, William Cing;
- d. Based on contact received via letter, phone, or email from the following persons requesting to have themselves removed as parties of record, the following persons are removed as parties of record: Jerry Simunter (correct spelling Simunek), Gwen E Kaneshiro, Marion Muhm;
- e. Letter received from Cathy Sotherland requesting to replace Dennis or Jennie Sutherland with Cathy Sotherland. Request **Denied**.

Dated this December 8, 2021.

Tim Bjork, Chairman
South Dakota Water Management Board